

**CITY OF CHULA VISTA
MINUTES
MOBILEHOME RENT REVIEW COMMISSION**

Thursday, January 19, 2012
6:00 P.M.

**276 FOURTH AVENUE
CITY HALL COUNCIL CHAMBERS**

CALL TO ORDER/ROLL CALL – 6:09 P.M.

PRESENT: Steve Epstein, Rudy Gonzalez, Sam Longanecker, Cesar Padilla, Ramon Riesgo, Mitch Thompson

ABSENT: Pat LaPierre (excused)

STAFF: Stacey Kurz, Senior Project Coordinator
Simon Silva, Deputy City Attorney

1. APPROVAL OF MINUTES

- ❖ *7/21/11 – Vice Chair Gonzalez made a motion to approve the minutes. Member Longanecker seconded the motion. All members (5-0) agreed to the approval of the minutes.*
- ❖ *9/21/11 - Vice Chair Gonzalez made a motion to approve the minutes. Member Longanecker seconded the motion. The minutes were approved (4-0-1) with an abstention due to absence at the 9/21/11 meeting by member Riesgo.*
- ❖ *1/4/12 - Vice Chair Gonzalez made a motion to approve the minutes. Member Longanecker seconded the motion. The minutes were approved (4-0-1) with an abstention due to absence at the 1/4/12 meeting by member Thompson.*

2. BRENTWOOD MOBILE HOME PARK PUBLIC HEARING: (1) AS ORDERED BY THE SAN DIEGO SUPERIOR COURT, TO SET ASIDE PRIOR RENT INCREASE OF \$45/MONTH AT BRENTWOOD MOBILE HOME PARK; AND (2) TO SET THE RENT INCREASE CONSISTENT WITH THE SUPERIOR COURT'S ORDER, INCLUDING CONSIDERATION OF CITY STAFF'S RECOMMENDATION THAT THE RENT INCREASE BE SET AT \$78/MONTH, PHASED IN BY A RENT INCREASE OF \$22/MONTH FOR 2012 AND \$26/MONTH FOR 2013 (WITH \$30/MONTH ALREADY HAVING BEEN PAID IN 2010 AND 2011)

Staff Kurz introduced the item indicating that the City had been in litigation with the Brentwood Mobilehome Park since the MHRRC decision of 7/15/10 and introduced Deputy City Attorney Silva whom provided a presentation, Attachment 1 and synopsis of the litigation and staff recommendation as outlined in the staff report, Attachment 2. The staff recommendation is based on the final decision in Brentwood MHP v. City of Chula Vista, et. al, in San Diego Superior Court case No. 37-2010-00079506-CU-WM-SC and the administrative record as submitted.

Member Gonzalez asked if we need to have a date certain to the new increases. Attorney Silva indicated that the park owner would need to provide 90 day notice to residents and the increase would take effect on their anniversary date. Staff Kurz added that the staff recommendation would be for the first of those to take effect May 1, 2012.

Chair Padilla indicated that staff's recommendation back in 2010 was based on a market rent of \$560-567, however with this recommendation we would be going above market. Staff Kurz indicated that the new staff recommendation would increase rents in the range from the low \$500s to mid to high \$600s, thereby in effect setting a new market in this park. She did indicate that the previous market level was based on comparables taken two years prior and a recent market study has not been conducted. She

Mobilehome Rent Review Commission

Minutes

Page 2 of 3

further explained that this increase would impact the original 200 residents that still have the same lease terms as they did at the time of the July 2010 increase.

Chair Padilla announced the opening of the public hearing to the affected parties.

Park Owner:

William Dahlin, Hart, King, & Coldren – Mr. Dahlin commented on a few key points including: 1) the \$7,500 legal fee that was awarded through the court proceedings was based on a limitation in the Government Code; 2) park owner has indicated that they would accept a \$78 increase and would add a fourth (4th) year to the process in order to resolve this issue, thereby they have made a concession to accept the lesser amount, waiver of the legal fees, and the addition of the 4th year to benefit residents; 3) the Administrative Record (“AR”) is the only legal evidence that can be considered in the final decision this evening considering the court’s direction to set-aside the previous decision and set the rent based on the court’s direction. He feels the Resolution sets forth all of the appropriate references to the AR.

Member Thompson asked if the 9% rate of return is still applicable in this case and Mr. Dahlin indicated that he believes that it is the appropriate rate and the only legally defensible one as it is in the AR. Member Thompson further commented that the testimony of Dr. Neet indicated this rate was based on owner equity and was curious if any borrowing has occurred since that time. Mr. Dahlin indicated again he did not believe they could deviate from the rate in the AR but that the rate was based on owner generated funds and they had not financed or borrowed funds to complete the project.

Chair Padilla asked if the park owner still believes they are entitled to the \$96 that was previously requested and whether they agreed with the court’s decision. Mr. Dahlin indicated that they did believe the \$96 was the appropriate amount and felt that the court did leave some discretion to the commission; he further indicated that if they had not worked with the city to resolve the matter they would be asking for the full \$96, however they have entered discussion with the city and have entered into an agreement to accept the \$78.

Member Thompson asked staff if testimony indicating they had borrowed money now would have influence over the decision. Attorney Silva indicated that it would have no bearing on the case; the rate of return may be criticized however was the only expert testimony provided in the AR. There is no discretion since no alternative rate or method was provided, even if a commissioner had expertise, the commission is a triar of fact not a witness.

Member Thompson indicated he would like to consider altering #9 in the resolution to remove language that sounds present, as if Dr. Neet presented testimony and evidence at this hearing. Attorney Simon recommended language and Mr. Dahlin pointed to the AR and resolution indicating he did not believe the staff version was indicating that it was presented at this hearing and further pointed to the judgment on page 2 regarding the testimony to be considered must be within the AR.

Residents:

None.

Chair Padilla closed the public hearing and admitted the AR as presented by Deputy City Attorney Silva to the record.

Vice Chair Gonzalez made a motion to set-aside the previous 2010 decision and approves the staff recommendation of \$78. Member Longanecker seconded the motion. All members (5-0) agreed to the approval of the staff recommendation.

Vice Chair Gonzalez made a motion to adopt the findings and decision in support of the approval. Member Riesgo seconded the motion. Member Thompson requested a friendly amendment to the resolution in #9 of the findings to read “The record supports a 9% rate of return. Dr. Neet, an expert MAI

Mobilehome Rent Review Commission

Minutes

Page 3 of 3

appraiser, previously testified to support a 9% rate of return. (AR 1044-1052.)". Vice Chair Gonzalez accepted the amendment. All members (5-0) agreed to the approval of the findings and decision with the noted amendment by member Thompson.

3. STAFF COMMENTS

Staff Kurz and Attorney Silva announced that this would be Chair Padilla's last meeting due to his term ending and thanked him for his dedicated service and leadership as Chair. Chair Padilla thanked everyone.

4. MEMBERS COMMENTS

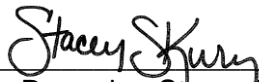
Chair Padilla and Member Thompson provided comments on the desire to have a fair rate of return expert to provide the MHRRC additional testimony in the future and felt that had that been present in the Brentwood hearing process it would have been beneficial.

Vice Chair Gonzalez expressed his concern over this decision setting precedence regarding the rate of return and Attorney Silva replied that this decision does not provide precedence for any future hearings including if Brentwood came in the future requesting an increase. The rate of return of future cases would be based on expert testimony provided at that time and with the adoption of the administrative fee the hope is that funding would be available to have additional testimony in future cases from a neutral third party.

5. PUBLIC COMMENTS

None.

6. ADJOURNMENT – Chair Padilla adjourned at 7:10 p.m. to the next regularly scheduled meeting of April 19, 2012.



Recorder, Stacey Kurz